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Building The
Wireless Future™

October 28 1994

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FEDERAL COMMUNICATIONS COMMISSION

CTIA

Cellular
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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

RE: Ex Parte Letter - CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency
Calling Systems

Dear Mr. Caton:

On Thursday, October 27, 1994, Mr. Thomas E. Wheeler, President and CEO, Cellular Telecommunications Industry Association (CTIA), sent the attached letter to Chairman Reed Hundt.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and the attachment are being filed with your office.

If there are any questions in this regard, please contact the undersigned.

Sincerely,


Robert F. Roche

Attachment

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Thomas E. Wheeler
President / CEO

Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Chairman:

Friday's filing of short form applications to bid in the broadband wireless spectrum auction, while significant, is just the end of the beginning for wireless policy. While you and your colleagues are to be commended for the expeditious manner in which you have brought this auction to reality, there remain multiple hurdles to be cleared before that spectrum can fulfill the expectations you and we have for serving consumers.

We are writing you today to express our concern that the auctioning of spectrum will not, in and of itself, produce a competitive nationwide wireless infrastructure. Whether we actually experience what President Clinton described as the "Information Skyway" will, in large part, be determined by three policy issues within your jurisdiction but beyond the scope of the auction.

1. Whether over 38,000 local governments and "not in my backyard" activists will thwart or delay the erection of a national pathway of cell sites necessary for the provision of wireless service,
2. Whether local telephone companies will continue to control the keys to the competitive kingdom: assignment of the actual telephone numbers, the rate paid for access to the public switched telephone network and the refusal to compensate wireless carriers for calls terminated on a wireless network,
3. Whether state regulators will control when and how access rates are lowered as well as whether new services will be offered.

If competitive wireless service is to expand as we all desire, the FCC must act expeditiously to establish policy on these issues.

Tower Siting and Taxation

Transmission sites are as essential to the provision of wireless service as the roadbed is for the railroad or highway. Yet the policy determination regarding whether or not a national "roadbed" will be built too often is being made by local governmental agencies. In other words, a Federal endeavor is ultimately controlled by every little town and village. Many of these local governments either do not have any procedures for such a process or have explicit bans on towers.

Tower siting determines the quality of service received by consumers and, increasingly, their access to public safety agencies through wireless 911 calls. It is counter intuitive, but a fact of wireless telephony, that to serve the greatest number of consumers requires the lowest possible transmission power. The lowest possible power, in turn, requires the largest number of cell sites.

Today's cellular service has required the construction of almost 15,000 cell sites. The record of your PCS proceeding contains estimates that between four and seven PCS cell sites are necessary to provide the coverage of one cellular site. The multiple new licenses you are auctioning, coupled with the projected growth in wireless demand, could mean as many as 100,000 cell sites by the end of the decade.

Ubiquitous wireless service -- including wireless service to schools, libraries and public safety agencies -- requires ubiquitous cell sites. Too often the process of building the wireless network is thwarted or delayed by "not in my back yard" activists seeking to block the construction of the national wireless pathway for parochial or ill-informed reasons.

Of increasing concern is how some local governments view wireless infrastructure as a new revenue source. The time for maximum governmental revenue leverage is when the wireless company is confronted with the choice of either paying the tribute or not building out to serve consumers. The Information Skyway should not be a new source of hidden taxes on consumers.

Access Fees and Mutual Compensation

Providing service between a wireless caller and the wireline network requires the wireless provider to interconnect with the wired network. Here again, a form of tribute is extracted, this time by the local telephone company's access fee. The choice for the wireless provider is to either pay the fee or not do business.

Most appalling is that while the local telephone companies require the wireless provider to pay them to terminate a call on their network, they flout Federal policy and refuse to pay the wireless company when a call is terminated on the wireless network. A wireless company receives nothing from the telephone company for handling a call which begins on a wired phone and terminates on a wireless phone.

If wireless is to be a consumer-priced service the wireless company must receive compensation when it performs a service, just as the telephone company receives compensation for its call termination. Of equal importance, both compensation levels must be reasonable.

Number Assignment

Telephone numbers are as scarce a resource as the spectrum which you are auctioning. There can be no new wireless service without the assignment of new telephone numbers.

Today, approximately two-thirds of all new telephone numbers are for wireless uses. Yet this precious resource is controlled by the local telephone companies through authority delegated to them by their cooperative, Bellcore.

Thus, in order to offer wireless service it is necessary to ask the telephone company, or its agent Bellcore, for the necessary numbers. CTIA has recently filed comments with the Commission calling to your attention some of the abuses of this process in specific markets.

In Chicago, for instance, the telephone company wants to force wireless consumers to give back the seven digit telephone numbers previously assigned to their cellular phones and be assigned new 10 digit numbers. In other major cities, including Los Angeles, Houston and Miami, the local telephone company is proposing to assign 10 digit numbers to wireless subscribers. The resulting cost and confusion clearly harms the wireless subscriber and benefits the party assigning the numbers.

The simple reality of numbering is that the fox cannot be asked to guard the hen house. CTIA has previously asked the FCC to establish a non-government, non-telephone company body to assign numbers. The sooner this entity is established, the sooner the mother's milk of competitive telephony -- telephone numbers -- will be openly and freely available.

Hon Reed Hundt
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State Regulation

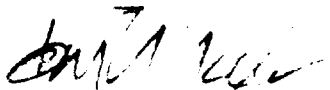
The Congress, last year, instructed the Commission to determine whether those states which regulate wireless should be permitted to continue that regulation. The facts of the matter are clear: state regulation has always meant delayed service and higher prices. This is because state regulation, instead of being a consumer protection tool, is frequently used by the attorneys of competing firms to keep the market from functioning competitively.

A recent study submitted to the Commission, for instance, establishes that the cellular subscribers of California pay \$250 million more each year because the California Public Utilities Commission has erected bureaucratic barriers against letting the wireless companies lower their rates.

Fortunately, only eight states continue to regulate cellular. Unfortunately, those states hold approximately 30 percent of all Americans. If those consumers are to truly enjoy the fruits of the new competition resulting from the auction, they must be protected from anti-competitive abuse of the state regulatory process.

Mr. Chairman, the die has been cast. The FCC has begun the process which will change the way in which Americans communicate, create new jobs and boost safety, convenience and productivity. The auction, however, is only the first step. Before the Information Skyway can fully flourish the FCC will have to address the policy issues raised in this letter. We look forward to working with you and Commissioners Quello, Barrett, Chong and Ness to deliver on the vision of the wireless future.

Very truly yours,



Thomas E. Wheeler

cc: Commissioners